

## Thomas & Thomas E-News

### News in Westminster

#### Early Morning Restriction Orders (“EMROs”)

It seems Westminster are unlikely to implement or consult on an EMRO. They only have a duty to do so if a relevant stakeholder has made a request for an EMRO. As far as we can tell, this has not yet happened and it seems unlikely that Westminster would do this on their own volition, unlike at least one other Council in London (Islington). If implemented, an EMRO can restrict the time alcohol is sold anytime after midnight within a designated area.

#### Late Night Levy

Similarly, there seems no pressing impetus to implement a late-night levy on premises operating after midnight. This could potentially change if Westminster lose their sex shop case, which is currently with the European Court and they are not able to include the cost of any enforcement in the licence fee. Perhaps, understandably, they might see the levy as a way of recovering any “lost revenue”.

#### West End Commission

The West End Commission will be publishing their latest report and findings on 30 April. We anticipate that there might be a focus on problematic uses, such as they see it, in the late-night economy, rather than the evening economy. In other words, it is perhaps more likely to focus on nightclubs and late-night cafes, rather than bars and restaurants which close before 1.00 am.

#### Licensing Policy

The next Westminster licensing policy review will probably take place in 2014. We think they may go out to consultation later this year. Bear in mind that every consultation thus far has tightened the policy. They have also recently commissioned another study on the late night economy which they may try to use to bolster their Policy. Nevertheless the consultation would be a unique opportunity to ask for some relaxation.

### **Opening Hours – Enforceable or Not?**

The enforceability of a Premises Licences’ opening hours is often a source of confusion. If a Licence has a terminal hour for the sale of alcohol at midnight the position is clear, but what do the ‘opening hours’ mean?

One interpretation is that no customers should be on the premises outside the specified opening hours. This is often the case for example in planning where there is a specific condition which spells it out. However, in the absence of a specific licence condition, the usual view is that the opening hours are not much more than informative and would not usually mean that customers have to be off the premises by that time.

That view was adopted by the High Court in the 1990’s where it was held a restaurant was not being kept open after its licensed opening hours when the only customers present after hours were those who had been admitted within the permitted hours and were just finishing their meals.

## **Case Study: Online Sales of Alcohol**

Conditions imposed on off-licences can be extremely restrictive, particularly those relating to age verification when the sale is made remotely. Online age verification systems are now widely available to deal with the transaction itself, but what about delivery of the alcohol?

The Licensing Act does not require age verification checks at the place of delivery when alcohol is delivered to a workplace or someone's home. So the process takes place at the point of order and despatch.

### **A further rant about off-licences**

Earlier this year, we wrote about our concern about the proliferation of off-licences in Central London and the effect of such upon your businesses. With talks of minimum pricing for all, it seems ridiculous that off-licences are able to sell alcohol at discounted prices and also with disposable cups so that their customers can drink directly outside or in the vicinity of the premises. Under the old Licensing Act, the consumption of alcohol in the vicinity of an off-licence was illegal.

### **Thomas & Thomas Drinks Reception & Licensing Seminar**

Our popular Drinks Reception & Licensing Seminar will be held in the spectacular surroundings of the House of St Barnabas in Soho on the 9<sup>th</sup> May at 6pm. It will be very informative and free (but limited) alcohol will be on offer so as not to fall foul of a mandatory condition! For details click [here](#). If you would like to attend please RSVP to [info@tandtp.com](mailto:info@tandtp.com).

### **“Best Licensing Solicitors” Award**

Finally, we have been awarded the title of “Best Licensing Solicitors in England” by the Corporate INTL Legal Awards 2013.

If you have any queries in respect of the above or any other matter, please contact one of the partners

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